Remarks

Restriction Requirement

Applicant herein cancels claims 14-21, 30-44 and 49-56 as directed to a non-elected invention. Applicant, however, maintains as withdrawn claims 22-29 and 45-48, as these claims are directed to subject matter that is believed to be within the scope of examination of Claims 1-13, and upon allowance of subject matter in those claims, the Applicant would be amendable to amending the Withdrawn claims accordingly, or having the Examiner enter the amendments.

Specification Amendments

Paragraph [0004] is amended to correct typographical errors:

The number in line 1, "200202412" is replaced with –2002020412–;

The number in line 6 "2002042428" is replaced with –2002/0042482–.

No new matter is added.

Double Patenting

The Examiner rejected Claims 1-13 based on the judicially created doctrine of obviousness double patenting over claims 1-17 in copending U.S.S.N. 10/762,494, assigned to the assignee of the current application. The Applicant herein submits a terminal disclaimer to this reference.

The Applicant requests that this rejection be withdrawn.

Section 112, second paragraph, Rejection

The Examiner rejected Claims 1-7 under 35 U.S.C. § 112 as indefinite due to the use of the terms "about". The Applicant traverses this rejection, as the MPEP at § 2173.05(b)A cites case law holding that the term "about" is generally clear and allowable language so long as there is an "indication as to what range of the specific activity is covered by the term 'about'". Given that the methods for measuring the parameters at issue are well known in the art, it would be understood what the "range" would be.

For example, the "surface area" may be measured according to the method of Measuring Porous Solid Surface Area by Gas Sorption. This method relies on the tendency of all solid surfaces to attract surrounding gas molecules gives rise to a process called gas sorption. Before performing gas sorption experiments, solid surfaces must be freed from contaminants such as water and oils. Surface cleaning (degassing) is most often carried out by placing a sample of the solid in a glass cell and heating it under a vacuum. Once clean, the sample is brought to a constant temperature by means of an external bath (usually liquid N_2). Then, small amounts of a gas (the absorbate, usually N_2) are admitted in steps into the evacuated sample chamber. Absorbate molecules can either bounce off or stick to the surface of every pore in the solid (the adsorbent). Molecules of gas adsorbate that stick to the surface are said to be physically adsorbed. Physisorbed molecules are fairly free to move around the surface of the sample. As more gas molecules are introduced into the system, the adsorbate molecules tend to form a thin layer that covers the entire adsorbent surface. Based on the well-known Brunauer, Emmett and Teller (B.E.T.) theory (Brunauer, S., Emmett, P.H., Teller, E., J. *Am. Chem. Soc.* 60, 1309, 1938), one can estimate the number of molecules required to cover the adsorbent surface with a monolayer of adsorbed molecules, N_m. Multiplying N_m by the cross-sectional area of an adsorbate molecule yields the sample's surface area.

The "pore volume" may be measured according to the continued addition of gas molecules beyond monolayer formation leads to the gradual stacking of multiple layers (or multilayers) on top of each other. The formation of multilayers occurs in parallel to capillary condensation. As the equilibrium adsorbate pressures approach saturation, the pores become completely filled with adsorbate. Knowing the density of the adsorbate, one can calculate the volume it occupies and, consequently, the total pore volume of the sample.

Finally, the temperature may be measured by, for example, high temperature thermocouples and other commonly known methods.

These methods are well known in the art, and their level of accuracy also well documented. One skilled in the art would understand the level to which such claim features can be measured. Thus the term "about" is not indefinite in this regard.

The Applicant requests that this rejection be withdrawn.

Section 102 Rejection

The Examiner rejected Claims 1-13 under 35 U.S.C. § 102(b) as being anticipated by *Kral, et al.* (US 5,034,364). The Applicant traverses this rejection.

The Applicant amends Claim 1 by selecting the range "(b)", and deleting the features "selected from the group consisting of silica having: (a) a pore volume of about 1.1 to about 1.8 cm^3/g and a surface area of about 245 to about 375 m^2/g," and "and (c) a pore volume of about 0.9 to about 1.4 cm^3/g and a surface area of about 390 to about 590 m^2/g; and,". The term — having— is added for clarity.

The Applicant has demonstrated that silicas having this feature have an unexpectedly high productivity and produced polymer having an advantageously high molecular weight distribution, as discussed at paragraph [0140], referencing the working examples shown in Table 12.

Kral et al. is silent about the specific ranges being clamed. The MPEP § at 2131.03 II. states that

> In order to anticipate the claims, the claimed subject matter must be disclosed in the reference with 'sufficient specificity to constitute an anticipation under the statue.' . . ..If the claims are directed to a narrow range, the reference teaches a broad range, and there is evidence of unexpected results within the claimed narrow range . . . it may be reasonable to conclude that the narrow range is not disclosed with 'sufficient specificity' to constitute an anticipation of the claims.
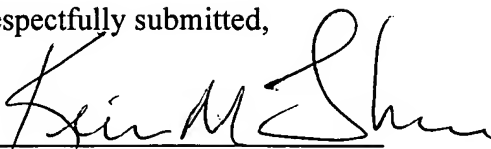
The Applicant contends that this is the present case here, and thus, the claims are allowable as amended.

It is submitted that the case is in condition for allowance. The Applicant invites the Examiner to telephone the undersigned attorney if there are any other issues outstanding which have not been presented to the Examiner's satisfaction.

Respectfully submitted,

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Date

Kevin M. Faulkner
Attorney for Applicants
Registration No. 45,427

Univation Technologies, LLC
5555 San Felipe, Suite 1950
Houston, Texas 77056-2723
Phone: 713-892-3729
Fax: 713-892-3687